

88-55①

NO. _____

Supreme Court, U.S.

FILED

JUL 11 1988

JOSEPH F. SPANIER, JR.
CLERK

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1987

In re DAVID C. ROBERTS,

Petitioner,

Vs.

CALIFORNIA COURT OF APPEAL

SECOND APPELLATE DISTRICT

DIVISON SEVEN,

Respondent,

PETITION FOR WRIT OF MANDAMUS TO THE

CALIFORNIA COURT OF APPEAL

SECOND APPELLATE DISTRICT,

DIVISION SEVEN

COPY

David C. Roberts
328 E. Tujunga Ave.
Burbank, California
Article IV, Sec 2, Cl 1,
Constitution of the
United of America

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QUESTION PRESENTED FOR REVIEW

CAN THE STATE OF CALIFORNIA LAWFULLY DENY A
DEMAND FOR THE ACKNOWLEDGEMENT OF AN
INDIVIDUALS STATUS OF DEJURE CITIZENSHIP
WHEN THERE HAS BEEN NO OPPOSITION TO HIS
DEMAND?

Relief Not Available In Other Court

Lower Courts have failed to move. State
Supreme Court has denied. No relief has
been given, therefore it is now the
petitioner against the State of California.

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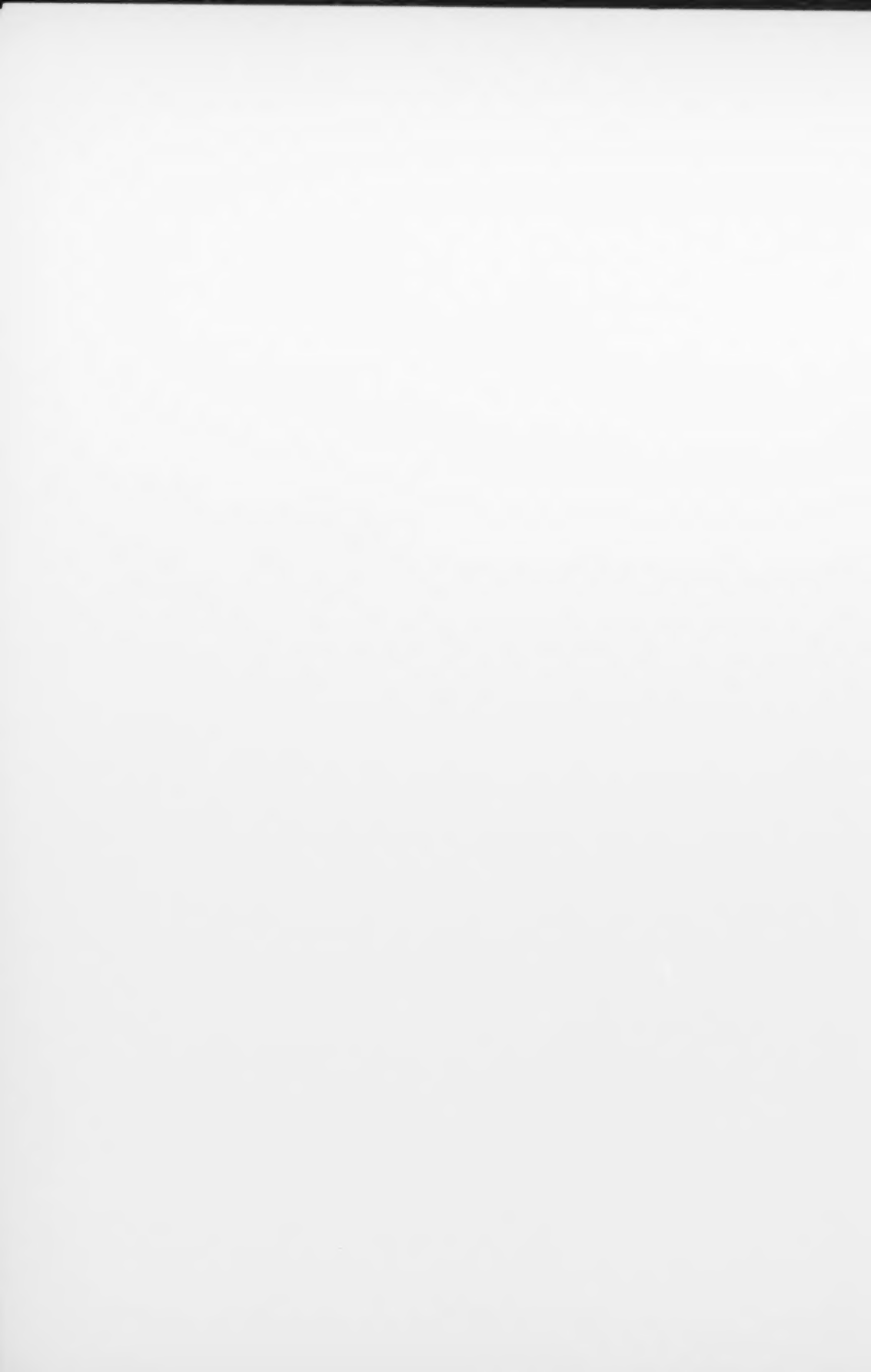
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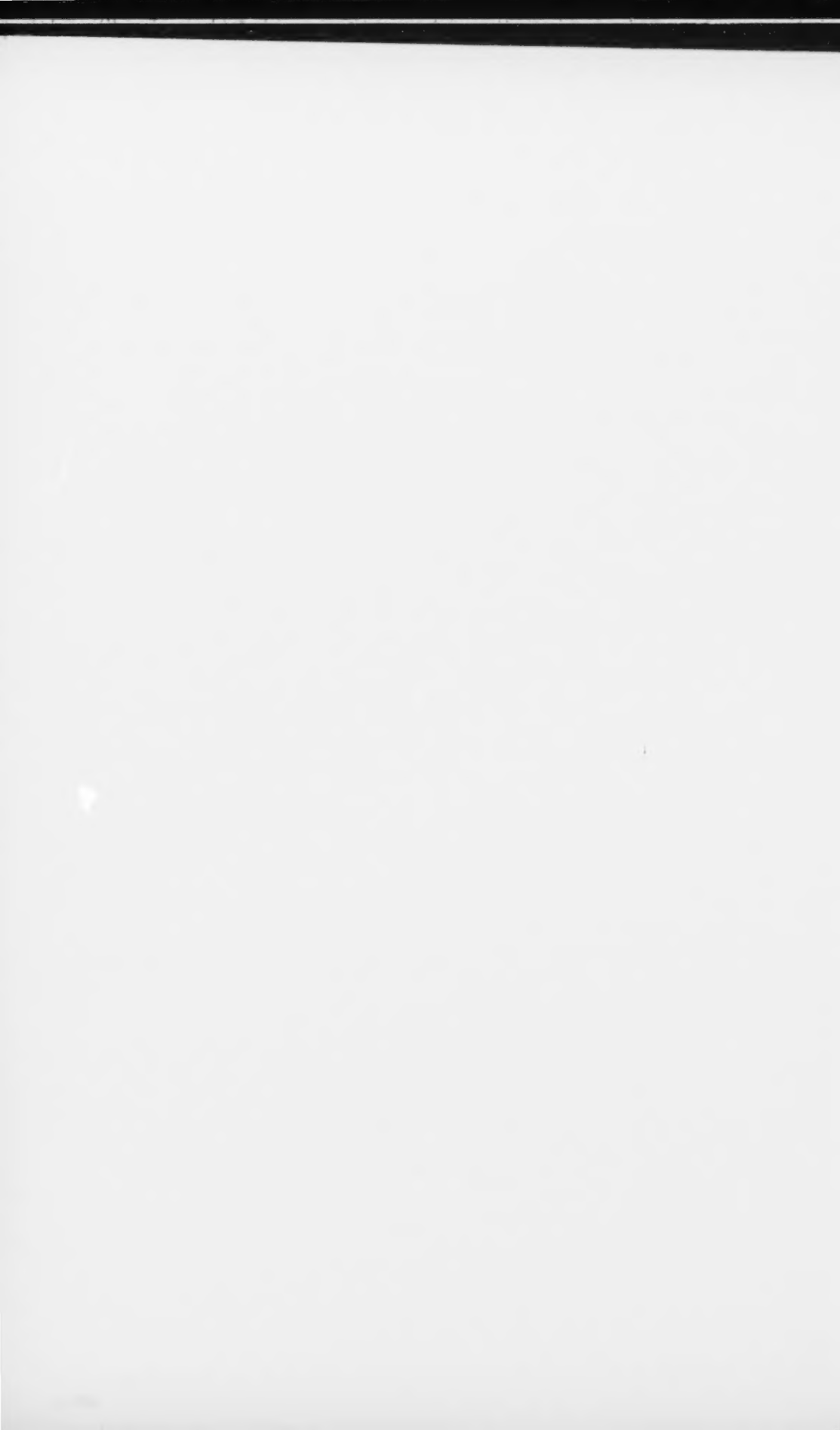
PETITION FOR WRIT OF MANDAMUS TO THE
CALIFORNIA COURT OF APPEAL
SECOND APPELLATE DISTRICT,
DIVISION SEVEN

The petitioner, David C Roberts,
respectfully prays that :

A Writ of Mandamus issue to the California Court of Appeal Second Appellate District, Division Seven, located in Los Angeles, California, to compel the Court of Appeal to issue the Default Judgment in Appellate Case Number B 024796.

JURISDICTION OF THIS COURT

JURISDICTION is hereby invoked pursuant to; MAGNA CARTA Chapter 61, 63; Northwest Ordinance, Sec. 4 & Article II; Declaration of Independence, July 4, 1776; Preamble, Constitution of the United States of America, 1787; Constitution of the United States of America, Article III, Sec. 1, Article III, Sec. 2, Cl. 1, & 2, Article VI, Sec 2, Sec 3; FIRST CONGRESS, Stat. I, Ch. XX, Sec. 13,14,32,34,35; California First Session, I Stat. 95, (April 13, 1850); California Civil Code, Source of Law, Sec. 22.2; Marbury v. Madison 1 C 137, 5 US. 368, 391, (1803); Dred Scott v. Sanford, 19 . -2-



Howard, 393, 405, (1856); Mugler v. Kansas,
123 US 633, 661, (1887); Minor v.
Happersett, 21 Wall (88 US) 162, 171, 166,
167.

Constitutional Provision Involved

Article of Amendment IX:

[Section 1.] The enumeration in the
Constitution, of certain rights, shall not
be construed to deny or disparage others
retained by the people.

STATEMENT OF FACTS

Petitioner is a Natural born Citizen of
Colorado, now an inhabitant of California
and therefore a citizen of the Several
States, under Article IV, Sec 2, Clause 1,
US Constitution, having revoked and
rescinded all contracts and recorded the
"Revocations of Power of Attorney" at the
Los Angeles County Recorders Office, and
executed them properly under the laws of
California and the United States of America

to the proper administrative officials. See exhibits "A through D" attached and made a part hereof and herein.

On November 10, 1986 Petitioner filed in the Superior Court of Los Angeles County, State of California, a "Petition For Declaratory Judgment of Citizenship" Case Number C624188 which was denied on Monday November 24 1986 by Judge Warren H. Deering, Petitioner then appealed timely to the California Court of Appeal Second Appellate District, as "no person can claim to be something they are not". see Ozawa v. United States, 260 US 178.

Then on August 19, 1987, I received from the Presiding Judge of Division Seven, a Notice to the Respondents to file within 30 days, after the date on the notice or good cause shown for relief from default, the default would be submitted for decision upon the record and the appellant's opening

brief. Per Rule 17b California Rules of Court. See exhibit "E" attached and made a part herein and hereof.

On August 31, 1987, I received from County Counsel a copy of a letter sent to the Presiding Judge Mildred L. Lillie, of Division Seven, court of Appeal, containing a statement that Judge Warren H. Deering would not appear and did not feel he was a party to the action. See exhibit "F" attached and made a part herein and hereof.

Ninety (90) days have passed and the "Default Judgment" has not been received from the California Court of Appeal, Second Appellate District, Division Seven.

Petition for writ of mandamus to the California Court of Appeals was filed in the Supreme Court of the State of California on May 6, 1988 and was denied on June 22, 1988.



Reason for Granting Writ

Petitioner is entitled to a declaration of his status as a matter of law, Constitution of the United States of America, and Right, Article IX of Amendment, Constitution of the United States of America.

Conclusion

Wherefore, Petitioner prays for the Writ of Mandamus to issue, under the Rules set forth in Marbury v. Madison, 5 US 368, plus the filing costs of this petition and the cost of the filing in the Court of Appeal, State Supreme Court along with the Declaratory Judgment to be issued in favor of the Petitioner forthwith.

David C. Roberts

Seal David C. Roberts

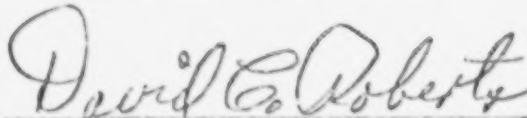
Under Article IV, Sec 2, Cl 1.

U.S. Constitution

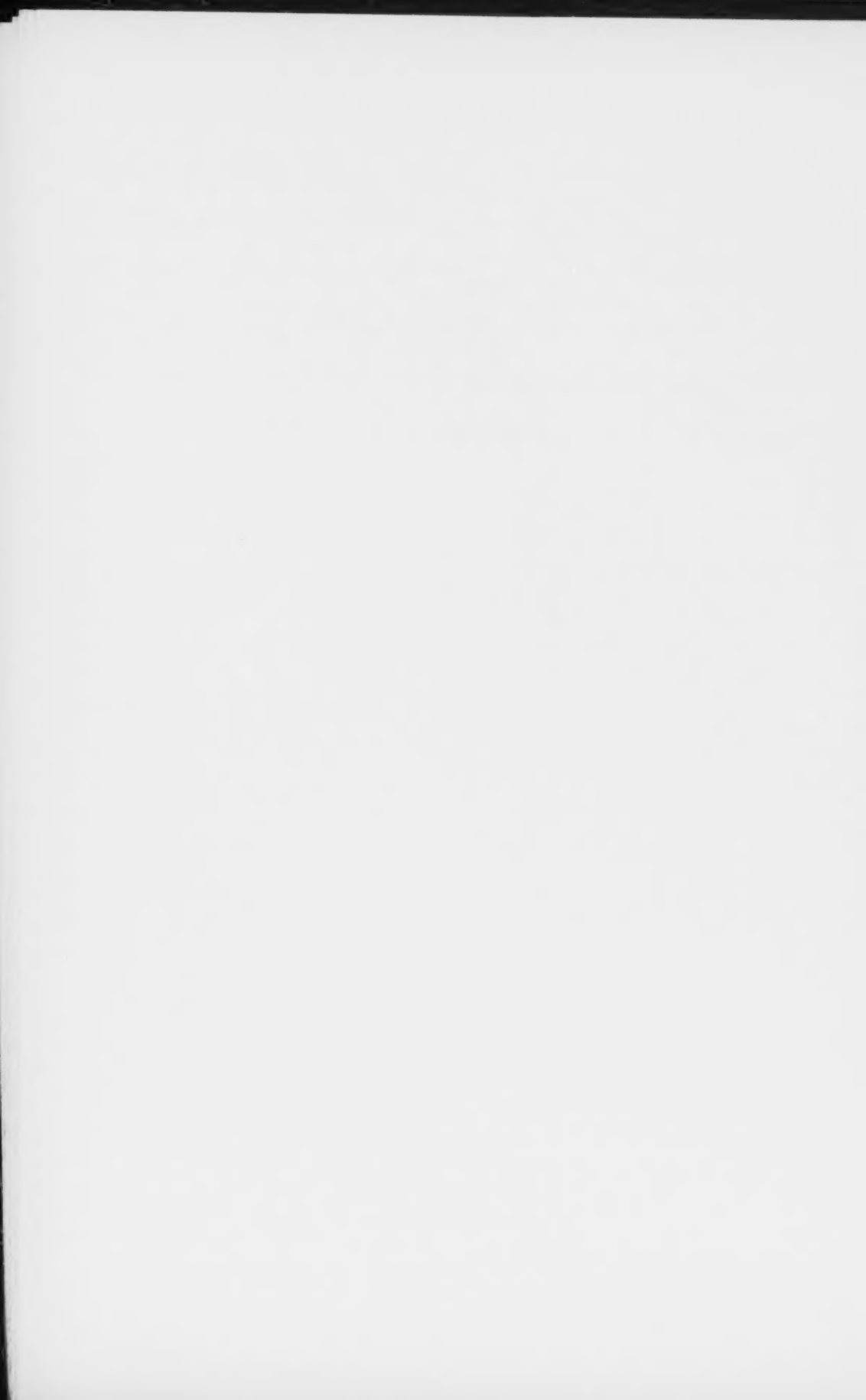
VERIFICATION

I, David C. Roberts, have read the foregoing declaration, brief and declare under the penalty of perjury under the laws of the United States of America, that the foregoing is true and correct to the best of my knowledge and belief.

July 4, 1988

A handwritten signature in cursive script that reads "David C. Roberts". The signature is written in dark ink and is positioned above a horizontal line.

Seal David C. Roberts
Under Article IV, Sec 2, Cl 1.
US Constitution



Appendix .-A-

EXHIBIT "A"

Recording Requested By David C. Roberts,
Recorded in official records on July 20,
1987. (87-1147481). Revocation of Power
of Attorney. To whom it may concern: I
David C. Roberts, an inhabitant of Los
Angeles county, State of California, and a
de jure citizen thereof, hereby revoke,
rescind and make void ab initio, all powers
of attorney, in fact or otherwise, implied
in law or otherwise, signed either by me or
anyone else, as it pertains to my former
Social Security number, 523-26-5725, birth
certificate, marriage license, and any and
all other licenses, and or certificates
issued by any and all governmental/quasi
governmental entities, due to the use of
the various elements of fraud by said
agencies. I hereby waive, cancel,
repudiate and refuse to knowingly accept
any benefit and or gratuity attached to the

above mentioned items. I, David C. Roberts, do hereby revoke and rescind all powers of attorney, in fact or otherwise, signed by me or otherwise, implied in law or otherwise, with or without my consent and or knowledge, as it pertains to any and all property, real or personal, corporeal or incorporeal, obtained in the past, present or future. I am the sole and absolute legal owner and possess allodial title to any and all such property. Witness my hand this 17th day of July 1987. David C. Roberts. On the 17th day of July, in the year 1987, before me, the undersigned, a Notary public in and for the State of California, personally appeared David C. Roberts, proved to me on the basis of satisfactory evidence to be the person who subscribed to the within instrument and acknowledged to me that he/she executed it. Notary Public Kathy Bacon.

EXHIBIT "B"

Recording Requested by David C. Roberts,
Recorded in Official records, April 27,
1987. (87-654366). Revocation of Power of
Attorney. To whom it may concern: I,
David C. Roberts, an inhabitant of Los
Angeles County, State of California, do
hereby revoke and rescind all powers of
attorney in fact or otherwise, signed
either by me, or any and all previous
owners of VIN #1M47R2C112551, I David C.
Roberts, am the sole legal owner and
possess allodial title to said VIN Number.
There are no 2nd or 3rd party interests in
said VIN Number. I, David C. Roberts, do
hereby revoke and rescind all powers of
attorney in fact or otherwise, signed by
me, implied in law with or without my
informed consent and knowledge, as it
pertains to any property both real and
personal, obtained in the past, present or

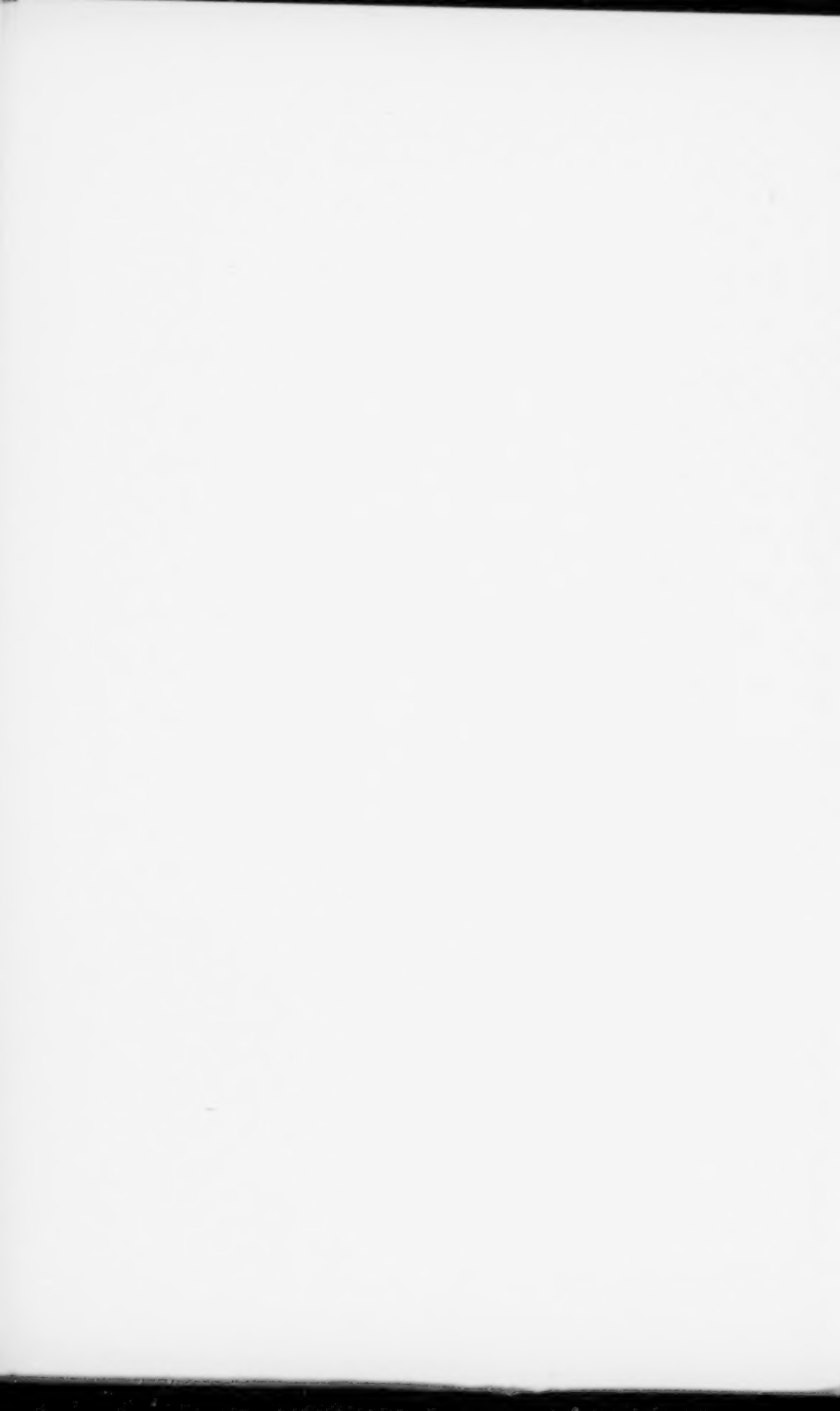
future. I am the sole and absolute legal owner and possess allodial title to any and all such property. Witness my hand this 25 day of April, 1987. David C. Roberts. On this 25th day of April, in the year 1987, before me the undersigned, a Notary Public in and for the State of California, personally appeared David C. Roberts, proved to me on the basis of satisfactory evidence to be the person whose subscribed to the within instrument and acknowledged to me that he executed it. Notary Public Kathy Bacon.

EXHIBIT "C"

Recording Requested by David C. Roberts, Recorded in official records, April 27, 1987. (87-654367) Revocation of Power of Attorney. To whom it may concern: I David C. Roberts, an inhabitant of Los Angeles County, State of California, do hereby revoke and rescind all powers of

attorney in fact or otherwise, signed either by me, or any and all previous owners of VIN #LAV10003586, I David C. Roberts, am the sole legal owner and possess allodial title to said VIN Number. There are no 2nd or 3rd parties interests in said VIN Number. I, David C. Roberts, do hereby revoke and rescind all powers of attorney in fact or otherwise, signed by me, implied in law with or without my informed consent and knowledge, as it pertains to any property both real and personal, obtained in the past, present or future. I am the sole and absolute legal owner and possess allodial title to any and all such property. Witness my hand this 25th day of April, 1987. David C. Roberts. On this 25th day of April, in the year 1987, before me, the undersigned, a Notary Public in and for the State of California, personally appeared David C.

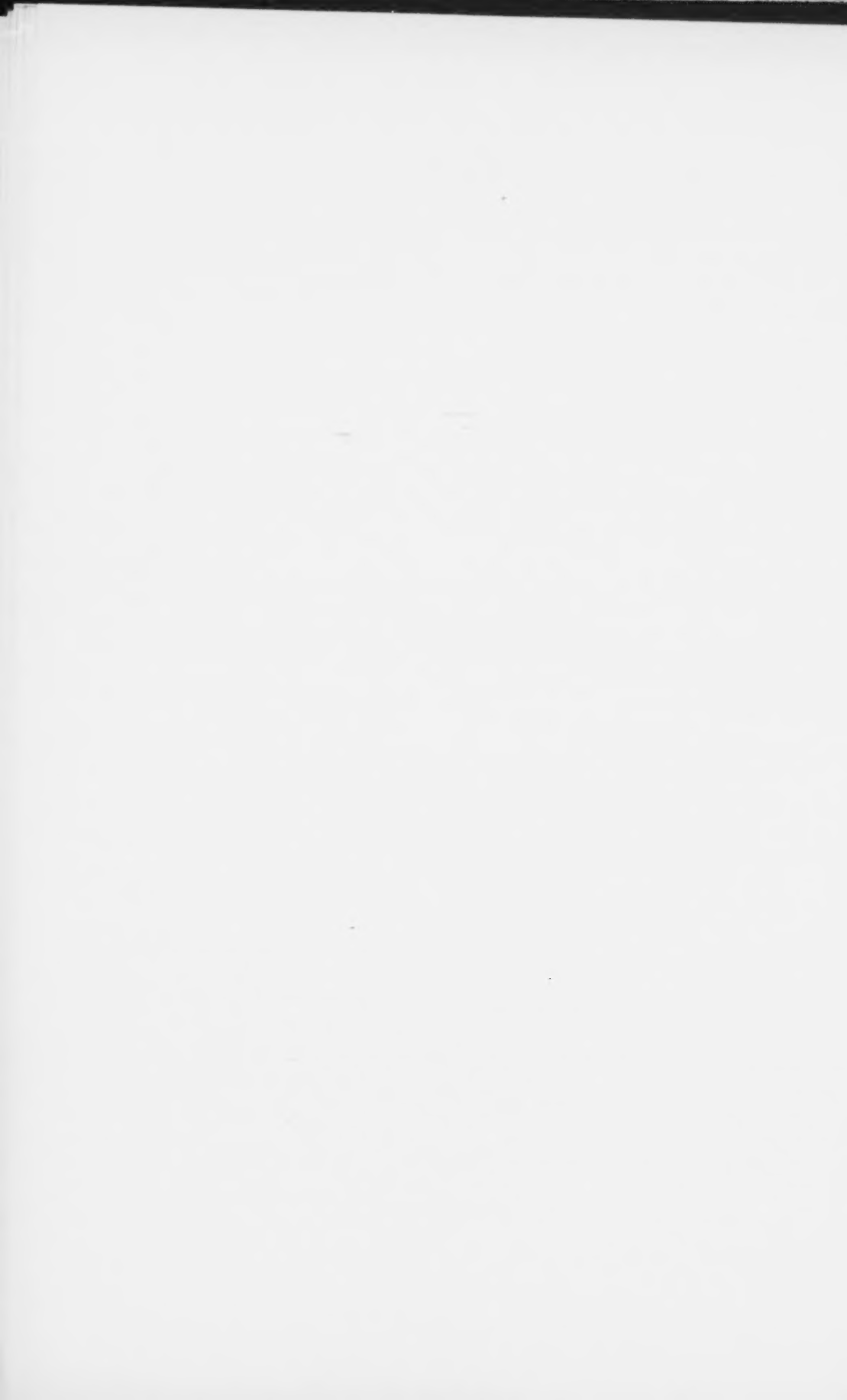
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Roberts, proved to me on the basis of satisfactory evidence to be the person whose subscribed to the within instrument and acknowledged to me that he executed it. Witness my hand and official seal
Notary Public Kathy Bacon.

EXHIBIT"D"

Recording requested by David C. Roberts, Recorded in Official records April 27, 1987. (87-654368). Revocation of Power of Attorney. To whom it may concern: I David C. Roberts, an inhabitant of Los Angeles County, State of California, do hereby revoke and rescind all powers of attorney in fact or otherwise, signed either by me, or any and all previous owners of VIN #307993S, I David C. Roberts, am the sole legal owner and possess allodial title to said VIN Number. There are no 2nd or 3rd party interests in said VIN Number. I, David C. Roberts, do hereby revoke and



rescind all powers of attorneys in fact or otherwise, signed by me, implied in law with or without my informed consent and knowledge, as it pertains to any property both real and personal, obtained in the past, present or future. I am the sole and absolute legal owner and possess allodial title to any and all such property. Witness my hand this 25th day of April, 1987. David C. Roberts. On this 25th day of April, in the year 1987, before me, the undersigned, a Notary Public in and for the State of California, personally appeared David C. Roberts, proved to me on the basis of satisfactory evidence to be the person whose subscribed it the within instrument and acknowledged to me that he executed it. Witness my hand and official seal Notary Public Kathy Bacon.

EXHIBIT"E"

OFFICE OF THE CLERK

COURT OF APPEAL

STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

ROBERT N. WILSON, CLERK

DIVISION: 7 DATE: 08/19/87

RE: Roberts, David C.

VS.

Does, John & Jane 1 Thru 99

2 Civil B024796

Los Angeles No. C624188

All Counsel:

Counsel for respondents JOHN & JANE
1-99 DOES is hereby notified that if their
brief is not on file within 30 day after
the date of this notice, or good cause
shown for relief from default, the appeal
will be submitted for decision upon the
record and the appellant's opening brief.

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(Rule 17b, California Rules of Court).

Very truly yours,

Robert N. Wilson, Clerk

Deputy Clerk

All Counsel Noticed

Second Appellate District

3580 Wilshire Blvd.,

Suite 301 L.A., CA. 90010.

David C. Roberts

328 E. Tujunga Ave.

Burbank, CA 91502.

EXHIBIT "F"

COUNTY OF LOS ANGELES

OFFICE OF THE COUNTY COUNSEL

648 Hall of Administration

500 West Temple Street

Los Angeles, California 90012

De Witt W. Clinton, August 31, 1987

Honorable Mildred L. Lillie

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Presiding Justice, Division Seven
Court of Appeal, Second Appellate District
3580 Wilshire Blvd., Suite 301
Los Angeles, Calif. 90010

Re: David C. Roberts v. John and Jane
Does 1 thru 99

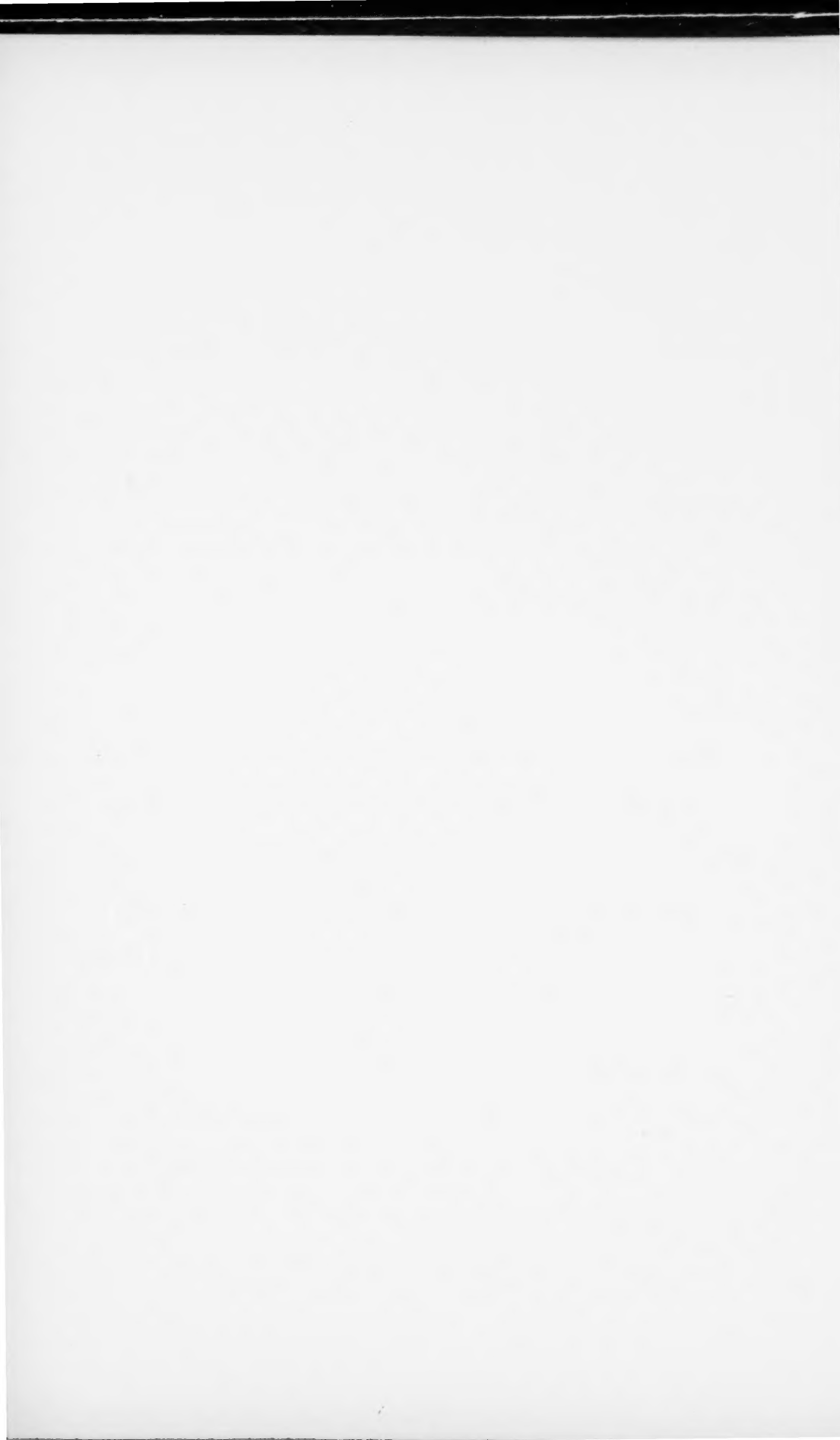
Dear Justice Lillie:

Our office was recently served with the enclosed notice pursuant to Rule 17(b) of California Rules of Court.

We are not attorney of record for any party. The Superior Court was not a party to the original proceeding which named Does 1 through 99 as defendants. The instant proceeding is an appeal, not a writ proceeding. Accordingly, the Superior Court does not appear to be a proper party to the appeal.

In any event, we have discussed this matter with the trial judge, the Honorable Warren Deering, and he does not request

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representation in this matter.

Very truly yours,

DE WITT W. CLINTON

County Counsel

By FREDERICK R. BENNETT

Assistant County Counsel

c: David C. Roberts, Presiding Judge
Goertzen

EXHIBIT"G"

COURT OF APPEAL OF THE STATE OF
CALIFORNIA SECOND APPELLATE DISTRICT

DIVISION SEVEN

DAVID C. ROBERTS, Petitioner,

CASE NO. B 024796

vs.

SUPERIOR COURT OF LOS ANGELES COUNTY,

Respondent, NO. C 624188

HONORABLE WARREN DEERING,

Real Party in Interest.

REQUEST FOR ENTRY OF DEFAULT JUDGMENT

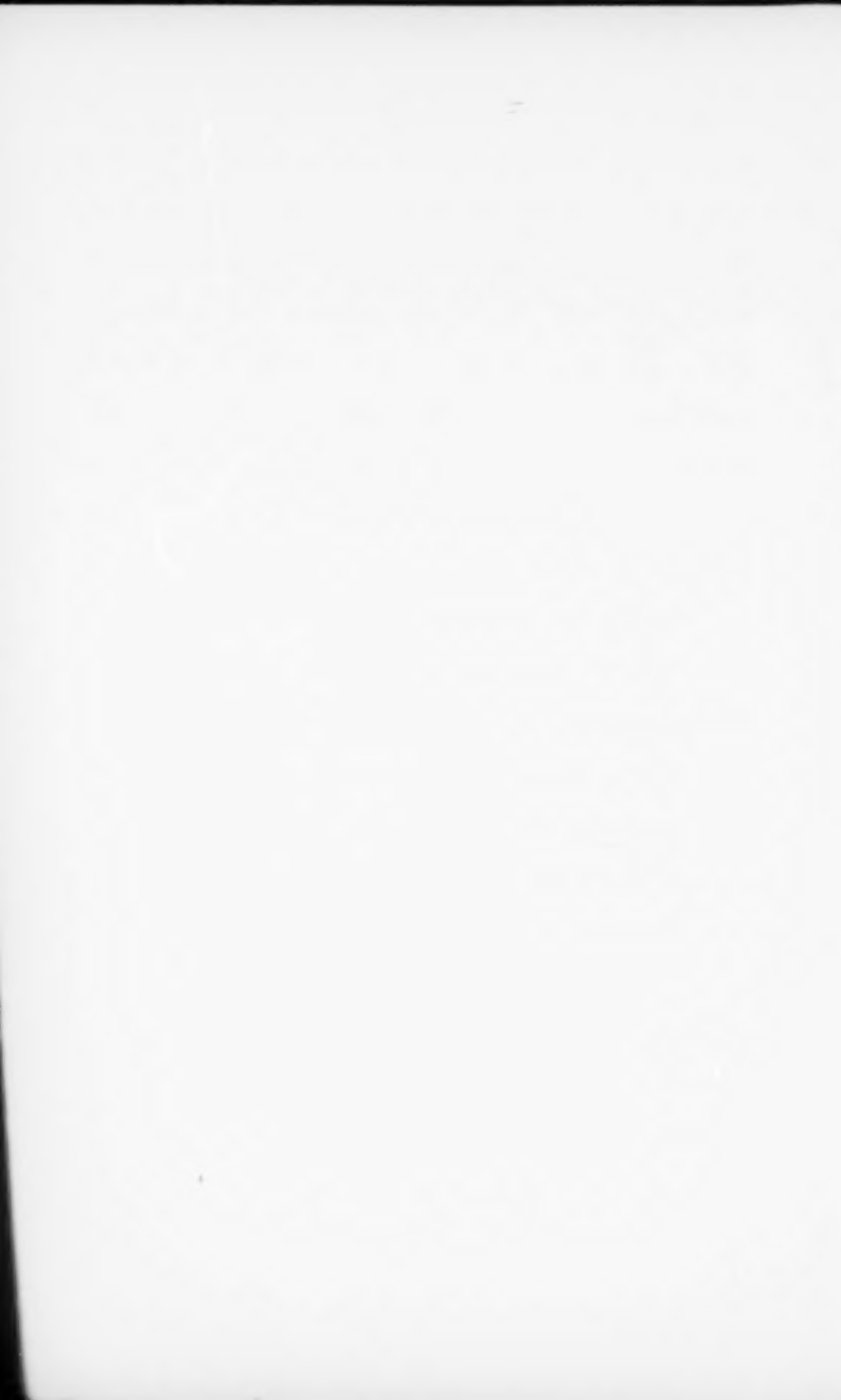
Request is hereby made for entry of Default

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Judgment per Rule 26 (B), (4). As the real party in interest Honorable Warren Deering via Los Angeles County Counsel Frederick R. Bennett on August 31, 1987, indicated he did not and will not oppose the judgment, and as the time under Rule 17(b) has expired on September 18, 1987, Petitioner/Appellant hereby requests entry of Default Judgment Dated September 28, 1987.

David C. Roberts
328 E. Tujunga Ave.
Burbank, California
Petitioner, Under
Article IV, SEC 2, CL 1,
U.S. Constitution
In Pro Per



Appendix -B-



No. S005500

IN THE SUPREME COURT OF
THE STATE OF CALIFORNIA
IN BANK

ROBERTS, Petitioner,

v.

COURT OF APPEAL, SECOND APPELLATE
DISTRICT, DIVISION SEVEN,
RESPONDENT

Petition for writ of mandate DENIED.

LUCAS

Appendix -B-



CERTIFICATE OF SERVICE

1. That I, MICHAEL W. MASON, declare under the laws of the United States of America:

That I am a Constituent Member of the Sovereign Political Body, a Dejure Citizen of California, and of the several states under Article IV, Sec 2, Cl 1, Constitution USA, and not a citizen of the United States (District of Columbia) under the Article of Amendment XIV, Sec 1, Const. USA, that I am an inhabitant of the 2nd Judicial District of California located in Los Angeles County, State of California.

That on July 7, 1988, service of the following document, (Petition For Writ of MANDAMUS) was made on the following: by mailing 3 copies to the following parties addressed as follows;

Judge Warren H. Deering c/o
De Witt W. Clinton c/o
Fredrick R. Bennett County Council
648 Hall of Adminintration
500 West Temple St.
Los Angeles, Calif. 90012

Court of Appeal
Second Appellate District
Division Seven
3580 Wilshire Blvd. Suite 301
Los Angeles, Ca 90010

Attorney General of Calif.
John Van De Kamp
1515 K Street
Sacramento Ca. 95814

Supreme Court of California
3580 Wilshire Blvd. Room 213
Los Angeles, California 90010

Michael W. Mason

Seal Michael W. Mason
2nd Judicial District
7926 Beckett St.
Sunland, California

Subscribed to and sworn before me,
JUDITH H. SPENCER, Notary Public for Los
Angeles County, California, this 5th day
of July, 1988.

Judith H. Spencer



Survive -2-